

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES M. MALARIK,)
Plaintiff,) Civil Action No. 08 - 619
v.) District Judge Donetta W. Ambrose, Chief
PORT AUTHORITY TRANSIT OF)
ALLEGHENY COUNTY, c/o David)
Allenbaugh-Bus Driver; PORT)
AUTHORITY TRANSIT POLICE, c/o)
Patrolman Robert Hresko,)
Defendants.

MEMORANDUM ORDER

The above captioned case was initiated by the filing of a Motion for Leave to Proceed *In Forma Pauperis* (doc. no. 1) on May 7, 2008, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Magistrate Judge Lisa Pupo Lenihan filed a Report and Recommendation on October 16, 2008 (doc. no. 9), recommending that Complaint be dismissed for failure to state a claim upon which relief could be granted. Plaintiff was served with the Report and Recommendation at both addresses listed on his Complaint and was advised that he had until November 3, 2008 to file objections to the Report and Recommendation. No objections have been filed.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 10th day of November, 2008;

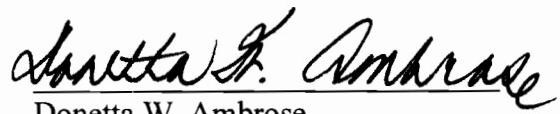
IT IS HEREBY ORDERED that the Complaint is **DISMISSED** for failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that the Report and Recommendation (doc. no. 9) of Magistrate Judge Lenihan dated October 16, 2008, is **ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:



Donetta W. Ambrose
Donetta W. Ambrose
United States District Judge, Chief

cc: Lisa Pupo Lenihan
United States Magistrate Judge

James M. Malarik
130218
Allegheny County Jail
950 Second Avenue
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James M. Malarik
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